

**ASSEMBLY BILL**

**No. 23**

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**Introduced by Assembly Members Coto and Arambula  
(Principal coauthor: Assembly Member Swanson)**

January 15, 2009

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An act to amend Sections 1252, 1275, and 1279 of the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 23, as introduced, Coto. Unemployment insurance.

(1) Existing law provides that an individual is considered “unemployed” for the purpose of eligibility for unemployment compensation benefits if, for any week of less than full-time work, the wages payable to the individual for that week, when reduced by \$25 or 25% of the wages payable, whichever is greater, do not equal or exceed the individual’s unemployment weekly benefit amount. Existing law provides for the payment of unemployment compensation to an individual in a weekly amount equal to his or her weekly benefit amount, less the amount of wages in excess of the smaller of \$25 or 25% of the wages payable.

This bill would instead provide that an individual is unemployed in any week of less than full-time work only if the wages payable to him or her with respect to the week, when reduced by the greater of \$200 or 25% of wages payable, do not equal or exceed his or her weekly unemployment compensation benefit amount. This bill would also provide the payment of unemployment compensation to an individual in a weekly amount equal to his or her weekly benefit amount, less the

amount of wages in excess of the smaller of \$200 or 25% of the wages payable for that week.

(2) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

This bill would, for new claims filed on or after January 1, 2009, for which a valid claim or benefit year cannot be established under the currently defined base periods, establish alternative base periods, as provided. The bill also would provide that these provisions shall become operative only if the federal legislation, known and cited as the Unemployment Insurance Modernization Act, is passed by Congress and signed by the President.

Because this measure would increase the amount of unemployment compensation paid, it would make an additional amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

(3) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1252 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 1252. (a) An individual is “unemployed” in any week in which
- 4 he or she meets any of the following conditions:
- 5 (1) Any week during which he or she performs no services and
- 6 with respect to which no wages are payable to him or her.
- 7 (2) Any week of less than full-time work, if the wages payable
- 8 to him or her with respect to the week, when reduced by
- 9 ~~twenty-five dollars (\$25)~~ *two hundred dollars (\$200)* or 25 percent

1 of the wages payable, whichever is greater, do not equal or exceed  
2 his or her weekly benefit amount.

3 (3) Any week for which, except for the requirements of  
4 subdivision (d) of Section 1253, he or she would be eligible for  
5 benefits under Section 1253.5.

6 (4) Any week during which he or she performs full-time work  
7 for five days as a juror, or as a witness under subpoena.

8 (b) Authorized regulations shall be prescribed making such  
9 distinctions as may be necessary in the procedures applicable to  
10 unemployed individuals as to total unemployment, part-total  
11 employment, partial unemployment of individuals attached to their  
12 regular jobs, and other forms of short-time work.

13 (c) For the purpose of this section only “wages” includes any  
14 and all compensation for personal services whether performed as  
15 an employee or as an independent contractor or as a juror or as a  
16 witness, but does not include any payment received by a member  
17 of the National Guard or reserve component of the ~~armed forces~~  
18 *Armed Forces* for inactive duty training, annual training, or  
19 emergency state active duty.

20 SEC. 2. Section 1275 of the Unemployment Insurance Code  
21 is amended to read:

22 1275. (a) Unemployment compensation benefit award  
23 computations shall be based on wages paid in the base period.  
24 “Base period” means: for benefit years beginning in October,  
25 November, or December, the four calendar quarters ended in the  
26 next preceding month of June; for benefit years beginning in  
27 January, February, or March, the four calendar quarters ended in  
28 the next preceding month of September; for benefit years beginning  
29 in April, May, or June, the four calendar quarters ended in the next  
30 preceding month of December; for benefit years beginning in July,  
31 August, or September, the four calendar quarters ended with the  
32 next preceding month of March. Wages used in the determination  
33 of benefits payable to an individual during any benefit year may  
34 not be used in determining that individual’s benefits in any  
35 subsequent benefit year.

36 (b) *For any new claim filed with an effective date on or after*  
37 *January 1, 2009, if an individual has not been paid sufficient wages*  
38 *in the first four of the last five completed calendar quarters to*  
39 *entitle the individual to establish a benefit year, then “base period”*  
40 *means: for benefit years beginning in October, November, or*

1 *December, the four calendar quarters ended in the prior preceding*  
2 *month of September; for benefit years beginning in January,*  
3 *February, or March, the four calendar quarters ended in the prior*  
4 *preceding month of December; for benefit years beginning in April,*  
5 *May, or June, the four calendar quarters ended in the prior*  
6 *preceding month of March; for benefit years beginning in July,*  
7 *August, or September, the four calendar quarters ended in the*  
8 *prior preceding month of June. As provided in Section 1280, the*  
9 *quarter with the highest wages shall be used to determine the*  
10 *individual's weekly benefit amount.*

11 *(c) The amendments made to this section by the act adding this*  
12 *subdivision shall become operative only if the federal legislation,*  
13 *known and cited as the Unemployment Insurance Modernization*  
14 *Act, is passed by Congress and signed by the President.*

15 SEC. 3. Section 1279 of the Unemployment Insurance Code  
16 is amended to read:

17 1279. (a) Each individual eligible under this chapter who is  
18 unemployed in any week shall be paid with respect to that week  
19 an unemployment compensation benefit in an amount equal to his  
20 or her weekly benefit amount less the smaller of the following:

21 (1) The amount of wages in excess of ~~twenty-five dollars (\$25)~~  
22 *two hundred dollars (\$200)* payable to him or her for services  
23 rendered during that week.

24 (2) The amount of wages in excess of 25 percent of the amount  
25 of wages payable to him or her for services rendered during that  
26 week.

27 (b) The benefit payment, if not a multiple of one dollar (\$1),  
28 shall be computed to the next higher multiple of one dollar (\$1).

29 (c) For the purpose of this section only, "wages" includes any  
30 and all compensation for personal services whether performed as  
31 an employee or as an independent contractor or as a juror or as a  
32 witness, but does not include any payments, regardless of their  
33 designation, made by a city of this state to an elected official  
34 thereof as an incident to public office, nor any payment received  
35 by a member of the National Guard or reserve component of the  
36 ~~armed forces~~ *Armed Forces* for inactive duty training, annual  
37 training, or emergency state active duty.

38 SEC. 4. This act addresses the fiscal emergency declared by  
39 the Governor by proclamation on December 19, 2008, pursuant

1 to subdivision (f) of Section 10 of Article IV of the California  
2 Constitution.

3 SEC. 5. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to stimulate the state's weakening economy as soon as  
8 possible, it is necessary that this act take effect immediately.

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